

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

WENDELL D.<sup>1</sup>, )  
Plaintiff, )  
v. ) Civil Action No. 7:17-cv-00364  
NANCY A. BERRYHILL, Acting ) By: Elizabeth K. Dillon  
Commissioner of Social Security, ) United States District Judge  
Defendant. )  
)

**ORDER AND FINAL JUDGMENT**

In this social security case, plaintiff Wendell D. and defendant Nancy A. Berryhill, Acting Commissioner of the Social Security Administration (the commissioner), both move for summary judgment under Federal Rule of Civil Procedure 56. Pursuant to 28 U.S.C. § 636(b)(1)(B), the court referred the motions to U.S. Magistrate Robert S. Ballou for a report and recommendation (R&R).

On January 9, 2019, the magistrate judge issued his R&R, recommending that the court grant the commissioner's motion and affirm the commissioner's final decision. (Dkt. No. 20 at 1.) The magistrate judge also advised the parties of their right under 28 U.S.C. § 636(b)(1)(C) to file written objections to his proposed findings and recommendations within 14 days of service of the R&R. (*Id.* at 14.)

The deadline to object to the R&R has passed, and no party has filed an objection. “[I]n the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to

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<sup>1</sup> Due to privacy concerns, the court adopts the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States that courts use only the first name and last initial of the claimant in social security opinions.

accept the recommendation.”” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Upon reviewing the record here, the court is satisfied that there is no clear error.

Accordingly, it hereby ORDERS as follows:

1. The R&R (Dkt. No. 20) is ADOPTED;
2. The commissioner’s motion for summary judgment (Dkt. No. 15) is GRANTED;
3. The plaintiff’s motion for summary judgment (Dkt. No. 13) is DENIED;
4. The commissioner’s decision is AFFIRMED; and
5. This matter is STRUCK from the active docket of the court.

The clerk is directed to send a copy of this order to all counsel of record.

Entered: January 29, 2019.

*/s/ Elizabeth K. Dillon*  
Elizabeth K. Dillon  
United States District Judge